Supreme Court, U.S.
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No. 01-1616

In the Supreme Court of the United States

MICHAEL COMFORT, ACTING DISTRICT DIRECTOR, IMMIGRATION AND NATURALIZATION SERVICE, PETITIONER

v.

PHU CHAN HOANG, THANH QUOC NGUYEN, AND PHAM QUA TRUNG

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

REPLY BRIEF FOR THE PETITIONER

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The petition in this case demonstrates that the case should be held pending this Court's disposition of the petitions in *DeMore* v. *Kim*, petition for cert. pending, No. 01-1491 (filed Apr. 9, 2002), and *Elwood* v. *Radoncic*, petition for cert. pending, No. 01-1459 (filed Apr. 4, 2002), and then should be disposed of as appropriate in light of the final dispositions of those cases. Respondents do not contest that demonstration. Indeed, respondents acknowledge the inextricable connection between *Kim*, *Radoncic*, and this case. See, *e.g.*, Br. in Opp. 11 (arguing that "[t]his petition should

be denied for the same reasons that both [*Kim* and *Radoncic*] should be denied.").

Respondents argue generally (Br. in Opp. 11-17) against reviewing the issue of whether the mandatory detention provisions of 8 U.S.C 1226(c) satisfy due process. Respondents repeat the arguments made by the aliens in *Kim* and *Radoncic*, which are addressed in the government's petitions and reply briefs in those cases. Review of the constitutionality of this Act of Congess is warranted for the reasons stated in the government's submissions in *Kim* and *Radoncic*, and in the petition in this case.*

* * * * *

The certiorari petition in this case should be held pending this Court's disposition of the petitions in *Kim* (No. 01-1491) and *Radoncic* (No. 01-1459) and then should be disposed of as appropriate in light of the final dispositions of those cases.

Respectfully submitted.

THEODORE B. OLSON
Solicitor General

JUNE 2002

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* One factual issue warrants clarification. Respondents state (Br. in Opp. 6 n.8) that they "are eligible for" relief from removal. In fact, they have asserted claims to relief, which will be considered in the pending removal proceedings. See Pet. App. 5a, 6a, 7a; Pet. 10 n.3.